



MIKE PENCE, *Governor*  
JAMAL L. SMITH, *Executive Director*

ICRC No.: EMha15010011

[REDACTED],  
Complainant,

v.

GARY HOUSING AUTHORITY,  
Respondent.

### NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission") pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred as alleged. 910 IAC 1-3-2(c).

On January 5, 2015, [REDACTED] ("Complainant") filed a Complaint with the Commission against Gary Housing Authority ("Respondent") alleging discrimination on the basis of disability in violation of the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) Accordingly, the Commission has jurisdiction over the parties and the subject matter of this Complaint. An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was denied a reasonable accommodation resulting in the termination of his employment. In order to prevail, Complainant must show that: (1) he has a disability as defined under the law; (2) Respondent knew or should have known of Complainant's need for a reasonable accommodation; (3) an accommodation exists that would permit Complainant to enjoy equal benefits and privileges of employment; and (4) Respondent failed to provide an effective accommodation. It is evident that Complainant has a disability as contemplated under the law; moreover, Respondent admits that it was aware of Complainant's impairment and need for a reasonable accommodation. Nonetheless, Respondent failed to engage in the interactive process with Complainant, resulting in the unreasonable denial of a reasonable accommodation.

By way of background, Respondent hired Complainant as a Maintenance Technician on or about February 1, 2002. At all times relevant to the Complaint, Complainant's duties required repetitive bending, significant standing, and lifting up to 70 pounds. In October 2013, Complainant was injured on the job. Evidence shows that he received worker compensation benefits after which



the Workers Compensation Board determined that he was at Maximum Medical Improvement with permanent restrictions prohibiting lifting in excess of 15 pounds, repetitive bending, and standing in excess of 15 minutes. On or about December 1, 2014, as a result of the permanent nature of Complainant's restrictions, Respondent terminated Complainant's employment effective December 1, 2014. Despite Respondent's assertions, there is insufficient evidence to support their claims. Rather, Respondent admits that it failed to engage in the interactive dialogue process with Complainant in order to gauge whether an accommodation existed that would have permitted Complainant to retain his employment. Moreover, Respondent admits that it in 2008, it was able to provide Complainant with light duty work for a short period of time for another work related injury. As a result of Respondent's decision to terminate Complainant's employment without engaging in the interactive dialogue process, probable cause exists to believe that a discriminatory practice occurred as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code § 22-9-1-18, 910-IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission's Administrative Law Judge will hear this matter. Ind. Code § 22-9-1-16, 910 IAC 1-3-6.

September 2, 2015  
Date

Akia A. Haynes  
Akia A. Haynes, Esq.  
Deputy Director  
Indiana Civil Rights Commission